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10/537,136

06/02/2005

Liang Gan

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

SHIBRU, HELEN

ART UNIT

PAPER NUMBER

2621

MAIL DATE

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06/27/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-----------------------------------|--|
| Office Action Summary | Application No. 10/537,136 | Applicant(s) GAN ET AL. | |
| | Examiner HELEN SHIBRU | Art Unit 2621 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/02/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

Drawings

1. Figure 1 is objected to under 37 CFR 1.83(a) because they fail to show legends designating numbers as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the

invention. The claim recites the other data comprises redundant information in limitation (a) and then recites “the redundant information in the other data is removed while storing the other data”. The ‘other data’ comprises redundant information this same other data, which includes redundant information, is stored while the redundant information is removed. According to the claim the other data, including the redundant information, is stored and removed at the same time. The claim is indefinite. Therefore the claim is rejected based on broad interpretation.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-5, 8, and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Gunji (US PG PUB 2002/0126994 A1).

Regarding claim 1, Gunji discloses a method of storing a stream of data received from a source in a memory, the stream of data comprising a stream of audio-visual data and other data, the method comprising the steps of: (a) storing the stream of data in a memory (see figure 10 step 14 and paragraph 0114); and (b) receiving a pause command (see paragraph 0115 and figure 10 step 18); characterized in that the method further comprises the steps of: (c) pausing the storage of the stream of audio-visual data upon reception of the pause command (see paragraph 0019,

claim 1, *recording operation is temporarily halt*) ; and (d) continuing the storage of the other data (see claims 1 and 6).

Regarding claim 2, Gunji discloses the other data is multiplexed with the stream of audio-visual data and the method further comprises the step of parsing the stream of data (see claim 1, *where it recites only position information is recorded, i.e. position information is separated from the stream of data*).

Regarding claim 3, Gunji discloses the data in the stream is split into the stream of audio-visual data and other data, and the audio-visual data is stored apart from the other data in the memory (see claim 1 *position information is recorded in the chapter information recording area*).

Regarding claim 4, Gunji discloses the other data comprises interactive applications that use trigger points in the stream of audio-visual data as input and wherein the method further comprises the steps of. (a) receiving an unpause command (see step 20 in figure 1); (b) re-commencing the storage of the stream of audio-visual data upon reception of the unpause command (see figure 10 and paragraph 0116); and (c) shifting at least one trigger point that is present in the stream of audio-visual data that is received while storage of the stream of audio-visual data is paused towards a point in the stream of audio-visual data that will be stored after re-commencing the storage of the stream of audio-visual data (see claims 2-3, *thumbnail picture is created when recording restarts after the temporary halt*).

Regarding claim 5, Gunji discloses the other data comprises interactive applications that are run during reproduction of the stream of audio-visual data and the method further comprises

the step of deleting applications that are not run during reproduction of the stream of audio-visual data that is stored in the memory (see paragraphs 0096-0097, *desired thumbnail to delete*).

Regarding claim 8, Gunji discloses the pause command is generated by a processing unit, comprised by an apparatus conceived to carry out the Method as claimed in claim 1 (see figure 1, component 30 and paragraph 0113-0117).

Regarding claim 10, Gunji discloses an apparatus for storing a stream of data received from a source in a memory, the stream of data comprising a stream of audio-visual data and other data, the apparatus comprising: (a) means for receiving a memory to store the stream of data (see figure 1); (b) means for receiving a pause command (see figure 1 component 47 and 30); and (c) a central processing unit characterized in that the central processing unit is conceived to (see figure 1 component 30): (d) pause a process of storing the stream of audio-visual data upon reception of a pause command (see claim 1 rejection above); and (e) continue the storage of the other data while the process storing of the stream of audio-visual data is paused (see claim 1 rejection above).

Regarding claims 11-12, claims 11-12 are rejected for the same reasons as discussed in claim 1 above. It is noted that Gunji discloses a programmed computer (see paragraphs 0007-0008 and 0065-0067).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gunji in view of Tsumagari (US PAT. NO. 6,480,669).

Regarding claim 9, although Gunji discloses the method as of claim 1, Gunji fails to disclose the other data comprises redundant information; and during pausing the storage of the audio-visual data, the redundant information in the other data is removed while storing the other data.

In the same field of endeavor Tsumagari discloses the other data comprises redundant information; and during pausing the storage of the audio-visual data, the redundant information in the other data is removed while storing the other data (see col. 29 line 66-col. 31 line 7). Therefore in light of the teaching in Tsumagari it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gunji by extracting entry points in order to manage the storage.

8. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gunji in view of Official Notice.

Regarding claims 6-7, although Gunji fails to disclose the stream of data is DVB transport stream and the other data comprises applications according to the MHP standard, Official Notice is taken that it is well known in the art at the time the invention was made to use DVB transport stream and MHP standard.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gunji by utilizing DVB transport stream and MHP standard in order to use it in different countries.

Claim Rejections - 35 USC § 101

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. Claims 11-12 are rejected under 35 U.S.C. 101 because the claims are directed to a recording medium storing nonfunctional descriptive material.

Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are neither physical “things” nor statutory processes. See, e.g. Warmerdam, 33 F. 3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory) and merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make it statutory. In addition a mere arrangements or compilations of facts or data, are merely stored so as to be read or outputted by a computer without creating any functional interrelationship either as part of the stored data or as part of the computing processes performed by the computer then such descriptive material alone does not impart functionality either to the data as so structured, or to the computer, and therefore are not statutory. See MPEP 2106.IV.B.1.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone number is (571)272-7329. The examiner can normally be reached on M-F, 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, THAI Q. TRAN can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HELEN SHIBRU/
Examiner, Art Unit 2621
June 20, 2008

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2621